

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 486

Introduced by Senator DeSaulnier
(Coauthor: Senator Liu)

February 21, 2013

An act to add Chapter 1.5 (commencing with Section 13985) to Part 4.5 of Division 2 of Title 2 of the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 486, as amended, DeSaulnier. Office of Legal Compliance and Ethics.

Existing law establishes the Transportation Agency (~~agency~~) in state government with various duties and responsibilities.

This bill would create the Office of Legal Compliance and Ethics (~~office~~) within the agency *and require the director of the office to organize the office with the approval of the audit committee, as defined. The bill would vest the office with responsibility for, among other things, acting to prevent and detect serious breaches of Department of Transportation (~~department~~) policy, and fraud, waste, and abuse within the department, including any acts of criminal conduct—within the department. The bill would require the office to conduct internal audits of the department, and would provide that the office have access to specified records and personnel, and other material necessary to conduct audits and investigations.* The bill would require the director of the office to report quarterly, at a noticed public hearing of the commission, regarding performance of and activities related to investigations and to report annually to the Governor and the Legislature

with a summary of his or her investigations. The bill would require the summary to be posted on the agency's Internet Web site.

The bill would require the director to provide information and evidence relating to criminal acts to the State Auditor's office and appropriate law enforcement officials ~~and to~~, and refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the Attorney General.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 1.5 (commencing with Section 13985)
2 is added to Part 4.5 of Division 2 of Title 2 of the Government
3 Code, to read:

4
5 CHAPTER 1.5. OFFICE OF LEGAL COMPLIANCE AND ETHICS

6
7 13985. (a) There is within the Transportation Agency an Office
8 of Legal Compliance and Ethics.

9 (b) As used in this chapter, the following terms shall have the
10 following meanings:

11 (1) "Agency" means the Transportation Agency.

12 (2) "*Audit committee*" means a committee comprised of the
13 commission and the secretary.

14 ~~(2)~~

15 (3) "Commission" means the California Transportation
16 Commission.

17 ~~(3)~~

18 (4) "Department" means the Department of Transportation.

19 ~~(4)~~

20 (5) "Director" means the Director of the Office of Legal
21 Compliance and Ethics.

22 ~~(5)~~

23 (6) "Office" means the Office of Legal Compliance and Ethics.

24 ~~(6)~~

25 (7) "Secretary" means the Secretary of the Transportation
26 Agency.

1 13985.1. (a) For purposes of administration, the ~~secretary~~
2 *director* shall organize the office with the approval of the ~~Governor~~
3 ~~and the commission audit committee~~.

4 (b) The Governor shall appoint the director for a six-year term,
5 subject to advice and consent of the Senate. The director may not
6 be removed from office during that term, except for good cause.
7 The director shall report directly to the ~~commission audit~~
8 *committee*.

9 (c) ~~The agency director~~ shall be responsible for developing a
10 proposed budget for the office in consultation with the department;
11 ~~the commission, and the office and the audit committee~~. Funding
12 for the office shall come from savings related to the reduction of
13 staff in the Division of Audits and Investigations within the
14 department due to the division's transferred workload to the office.

15 (d) *The director and office staff shall perform their duties and*
16 *functions in accordance with generally accepted audit standards*
17 *developed in consultation with the State Auditor.*

18 (e) *In the process of conducting audits and investigations, the*
19 *office shall have access to any and all department records to which*
20 *the Division of Audits and Investigations has access, including*
21 *information determined to be confidential and protected from*
22 *disclosure. The office shall have access to all employees,*
23 *contractors, subcontractors, and third-party books, records,*
24 *documents, and any other material necessary to conduct audits*
25 *and investigations. At the request of the office, copies of any*
26 *records or documents shall be provided.*

27 13985.2. The office shall be responsible for all of the following
28 as they relate to the department:

29 (a) Acting to prevent and detect serious breaches of departmental
30 policy, fraud, waste, and abuse, including any acts of criminal
31 conduct within the department.

32 (b) Independently and objectively reviewing and investigating
33 conduct described by subdivision (a), including, but not limited
34 to, all of the following:

35 (1) Criminal activity in the department or committed on
36 department property.

37 (2) Allegations of wrongdoing by department employees.

38 (3) Serious breaches of department policy.

39 (4) Significant issues relevant to the effectiveness of the
40 department.

1 (c) *Conducting internal audits of the department to identify*
2 *potential improvements in efficiency and performance.*

3 ~~(e)~~

4 (d) Ensuring that members of the commission and department
5 employees receive appropriate ethics training *by recommending*
6 *appropriate ethics policies and periodically reporting to the*
7 *commission on the status of the department's ethics training*
8 *program.*

9 ~~(d)~~

10 (e) Performing other duties assigned to the office by the
11 ~~commission~~ *audit committee.*

12 13985.3. (a) The director shall report quarterly, at a noticed
13 public hearing of the commission, regarding performance of and
14 activities related to investigations.

15 (b) The director shall report annually to the Governor and the
16 Legislature with a summary of his or her investigations. The
17 summary shall be posted on the agency's Internet Web site and
18 shall otherwise be made available to the public upon its release to
19 the Governor and Legislature. The summary shall include, but
20 need not be limited to, significant problems discovered by the
21 office and whether recommendations of the office relative to
22 investigations have been implemented by the department. The
23 report shall be submitted pursuant to Section 9795 and is not
24 subject to the provisions of Section 10231.5.

25 13985.4. (a) The director shall provide information and
26 evidence relating to criminal acts to the state auditor's office and
27 appropriate law enforcement officials.

28 (b) The director shall refer matters for further civil, criminal,
29 and administrative action to appropriate administrative and
30 prosecutorial agencies, including the Attorney General.